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INTERNATIONAL APPLICATION PUBLISHED UNDER THE PATENT COOPERATION TREATY (PCT)

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(71) Applicant (for all designated States except US): DANISCO A/S [DK/DK]; Langebrogade 1, P.O. Box 17, DK-1001 Copenhagen K (DK).

(72) Inventor; and  
 (75) Inventor/Applicant (for US only): SØE, Jørn, Borch [DK/DK]; Orøvaenget 11, DK-8381 Mundelstrup (DK).

(74) Agents: HARDING, Charles, Thomas et al.; D. Young & Co., 21 New Fetter Lane, London EC4A 1DA (GB).

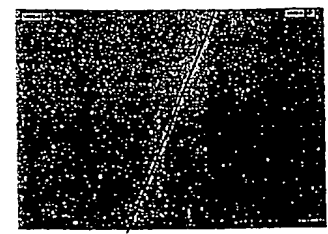
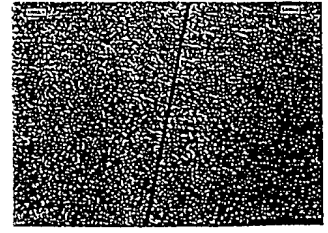
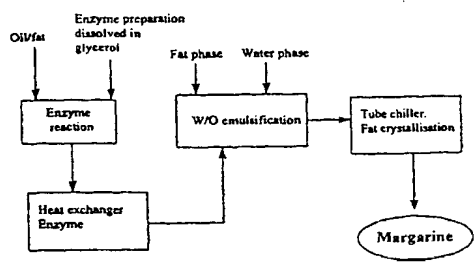
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**Published**  
 With international search report.  
 Before the expiration of the time limit for amending the claims and to be republished in the event of the receipt of amendments.

(54) Title: FOODSTUFF

(57) Abstract

There is provided use of a conversion agent to prepare from a food material a foodstuff comprising at least one functional ingredient, wherein the at least one functional ingredient has been generated from at least one constituent of the food material by the conversion agent.



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# PCT

## REQUEST

The undersigned requests that the present international application be processed according to the Patent Cooperation Treaty.

For receiving office use only

International Application No.

International Filing Date

Name of receiving Office and "PCT International Application"

Applicant's or agent's file reference  
(if desired) (12 characters maximum)

P005664WOCTH

**Box No. I TITLE OF INVENTION**  
FOODSTUFF

**Box No. II APPLICANT**

Name and address: (Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country. The country of the address indicated in this Box is the applicant's State (i.e. country) of residence if no State of residence is indicated below.)

Danisco A/S  
Langebrogade 1  
PO Box 17  
DK-1001 Copenhagen K  
Denmark

This person is also inventor.

Telephone No.

Facsimile No.

Teleprinter No.

State (i.e. country) of nationality: Denmark

State (i.e. country) of residence: Denmark

This person is applicant for the purposes of:  all designated States  all designated States except the United States of America  the United States of America only  the States indicated in the Supplemental Box

**Box No. III FURTHER APPLICANT(S) AND/OR (FURTHER) INVENTOR(S)**

Name and address: (Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country. The country of the address indicated in this Box is the applicant's State (i.e. country) of residence if no State of residence is indicated below.)

SØE, Jørn Borch  
Oroaenget 11  
DK-8381 Mundelstrup  
Denmark

This person is:

applicant only

applicant and inventor

inventor only (if this check-box is marked, do not fill in below)

State (i.e. country) of nationality: Denmark

State (i.e. country) of residence: Denmark

This person is applicant for the purposes of:  all designated States  all designated States except the United States of America  the United States of America only  the States indicated in the Supplemental Box

Further applicant and/or (further) inventors are indicated on a continuation sheet

**Box No. IV AGENT OR COMMON REPRESENTATIVE; OR ADDRESS FOR CORRESPONDENCE**

The person identified below is hereby/has been appointed to act on behalf of the applicant(s) before the competent International Authorities as:

agent

common representative

Name and address: (Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country.)

HARDING, Charles Thomas  
D Young & Co  
21 New Fetter Lane  
London  
EC4A 1DA  
United Kingdom

Telephone No.

023 8063 4816

Facsimile No.

023 8022 4262

Teleprinter No.

477667 YOUNGS G

Mark this check-box where no agent or common representative is/has been appointed and the space above is used instead to indicate a special address to which correspondence should be sent.

**Box No. V DESIGNATION OF STATES**

The following designations are hereby made under Rule 4.9(a) (mark the applicable check-boxes; at least one must be marked):

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**National Patent** (if other kind of protection or treatment desired, specify on dotted line):

- |  |  |
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**Precautionary Designation Statement:** In addition to the designations made above, the applicant also makes under Rule 4.9(b) all other designations which would be permitted under the PCT except any designation(s) indicated in the Supplemental Box as being excluded from the scope of this statement. The applicant declares that those additional designations are subject to confirmation and that any designation which is not confirmed before the expiration of 15 months from the priority date is to be regarded as withdrawn by the applicant at the expiration of that time limit. (Confirmation of a designation consists of the filing of a notice specifying that designation and the payment of the designation and confirmation fees. Confirmation must reach the receiving Office within the 15-month time limit.)

**Supplemental Box***If the Supplemental Box is not used, this sheet need not be included in the request.**Use this box in the following cases:***1. If, in any of the Boxes, the space is insufficient to furnish all the information:***in particular:*

- (i) if more than two persons are involved as applicants and/or inventors and no "continuation sheet" is available;
- (ii) if, in Box No. II or in any of the sub-boxes of Box No. III, the indication "the States indicated in the Supplemental Box" is checked;
- (iii) if, in Box No. II or in any of the sub-boxes of Box No. III, the inventor or the inventor/applicant is not inventor for the purposes of all designated States or for the purposes of the United States of America;
- (iv) if, in addition to the agent(s) indicated in Box No. IV, there are further agents;
- (v) if, in Box No. V, the name of any State (or OAPI) is accompanied by the indication "patent of addition," or "certificate of addition," or if, in Box No. V, the name of the United States of America is accompanied by an indication "Continuation" or "Continuation-in-part";
- (vi) if there are more than three earlier applications whose priority is claimed;

*in such case, write "Continuation of Box No. ..." [indicate the number of the Box] and furnish the information in the same manner as required according to the captions of the Box in which the space was insufficient;**in such case, write "Continuation of Box No. III" and indicate for each additional person the same type of information as required in Box No. III. The country of the address indicated in this Box is the applicant's State (i.e. country) of residence if no State of residence is indicated below;**in such case, write "Continuation of Box No. II" or "Continuation of Box No. III" or "Continuation of Boxes No. II and III" (as the case may be), indicate the name of the applicant(s) involved and, next to (each) such name, State(s) (and/or, where applicable, ARIPO, Eurasian, European or OAPI patent) for the purposes of which the named person is applicant;**in such case, write "Continuation of Box No. II" or "Continuation of Box No. III" or "Continuation of Boxes No. II and III" (as the case may be), indicate the name of the inventor(s) and, next to (each) such name, State(s) (and/or, where applicable, ARIPO, Eurasian, European or OAPI patent) for the purposes of which the named person is inventor;**in such case, write "Continuation of Box No. IV" and indicate for each further agent the same type of information as required in Box No. IV;**in such case, write "Continuation of Box No. V" and the name of each State involved (or OAPI), and after the name of each such State (or OAPI), the number of the parent title or parent application and the date of grant of the parent title or filing of the parent application;**in such case, write "Continuation of Box No. VI" and indicate for each additional earlier application the same type of information as required in Box No. VI.***2. If the applicant claims, in respect of any designated Office, the benefits of provisions of the national law concerning non-prejudicial disclosures or exceptions to lack of novelty:***in such case, write "Statement Concerning Non-Prejudicial Disclosures or Exceptions to Lack of Novelty" and furnish that statement below.***CONTINUATION OF BOX IV - ADDITIONAL REPRESENTATIVES**

PURVIS, William Michael Cameron  
 COTTER, Ivan John  
 PILCH, Adam John Michael  
 CRISP, David Norman  
 ROBINSON, Nigel Alexander Julian  
 HARRIS, Ian Richard  
 TURNER, James Arthur  
 MASCHIO, Antonio  
 MALLALIEU, Catherine Louise  
 PRICE, Paul Anthony King  
 PRATT, Richard Wilson  
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 HORNER, David  
 NACHSHEN, Neil  
 POTTER, Julian Mark  
 HAINES, Miles

**Box No. VI PRIORITY CLAIM**  Further priority claims are indicated in the Supplemental Box

The priority of the following earlier application(s) is hereby claimed:

Filing Date of earlier application (day/month/year)	Number of earlier application	Where earlier application is:		
		national application: country	regional application: * regional Office	international application: receiving Office
item (1) <sup>AA</sup> [21 Jul 1998] <sup>AA</sup> 21 July 1998 (21/7/1998)	9815905.6	[UK] <sup>A</sup> GB <sup>AA</sup>		
item (2) [11 Nov 1998] <sup>AA</sup> (11/11/1998) <sup>AA</sup> 11 November 1998	9824758.8	[UK] <sup>A</sup> GB <sup>AA</sup>		
item (3)				

The receiving Office is hereby requested to prepare and transmit to the International Bureau a certified copy of the earlier application(s) (only if the earlier application was filed with the Office which for the purposes of the present international application is the receiving Office) identified above as item(s): (1)-(2)

\* Where the earlier application is an ARIPO application, it is mandatory to indicate in the Supplemental Box at least one country party to the Paris Convention for the Protection of Industrial Property for which that earlier application was filed (Rule 4.10(b)(ii)). See Supplemental Box.

**Box No. VII INTERNATIONAL SEARCHING AUTHORITY**

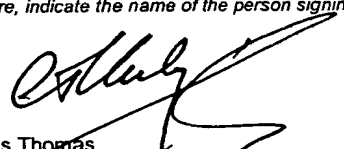
<p><b>Choice of International Searching Authority (ISA)</b> (If two or more International Searching Authorities are competent to carry out the international search, indicate the Authority chosen; the two-letter code may be used):</p> <p>ISA / EPO</p>	<p><b>Request to use results of earlier search; reference to that search (if an earlier search has been carried out by or requested from the International Searching Authority):</b></p> <p>Date (day/month/year)      Number:      Country (or regional Office):</p>
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**Box No. VII CHECK LIST; LANGUAGE OF FILING**

<p>This international application contains the following number of sheets:</p> <p>request : 4</p> <p>description (excluding sequence listing part) : 34</p> <p>claims : 4</p> <p>abstract : 1</p> <p>drawings : 2</p> <p>sequence listing part of description : 0</p> <p><b>Total number of sheets</b> : 45</p>	<p>This international application is accompanied by the item(s) marked below:</p> <ol style="list-style-type: none"> <li>1. <input type="checkbox"/> fee calculation sheet</li> <li>2. <input type="checkbox"/> separate signed power of attorney</li> <li>3. <input type="checkbox"/> copy of general power of attorney; reference number, if any:</li> <li>4. <input type="checkbox"/> statement explaining lack of signature</li> <li>5. <input type="checkbox"/> priority documents(s) identified in Box No. VI as item(s):</li> <li>6. <input type="checkbox"/> translation of international application into (language):</li> <li>7. <input type="checkbox"/> separate indications concerning deposited microorganism or other biological material</li> <li>8. <input type="checkbox"/> nucleotide and/or amino acid sequence listing in computer readable form</li> <li>9. <input checked="" type="checkbox"/> other (specify): Letter</li> </ol>
<p>Figure of the drawings which should accompany the abstract:</p>	<p>Language of filing of the international application: English</p>

**Box No. IX SIGNATURE OF APPLICANT OR AGENT**

Next to each signature, indicate the name of the person signing and the capacity in which the person signs (if such capacity is not obvious from reading the request)



HARDING, Charles Thomas

<p>1. Date of actual receipt of the purported international application: 20 JULY 1999 (20 07 99)</p> <p>2. Drawings: <input type="checkbox"/> received: <input type="checkbox"/> not received:</p> <p>3. Corrected date of actual receipt due to later but timely received papers or drawings completing the purported international application:</p> <p>4. Date of timely receipt of the required corrections under PCT Article 11(2):</p> <p>5. International Searching Authority specified by the applicant: ISA /</p>	<p>6. <input checked="" type="checkbox"/> Transmittal of search copy delayed until search fee paid</p>
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The demand must be filed directly with the Competent International Preliminary Examining Authority or, if two or more Authorities are competent, with the one chosen by the applicant. The full name or two-letter code of that Authority may be indicated by the applicant on the line below:

IPEA/ EPO

# PCT

## DEMAND

CHAPTER II

under Article 31 of the Patent Cooperation Treaty:  
The undersigned requests that the international application specified below be the subject of international preliminary examination according to the Patent Cooperation Treaty and hereby elects all eligible States (except where otherwise indicated).

For International Preliminary Examining Authority use only																							
Identification of IPEA	Date of receipt of DEMAND																						
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 65%;"><b>Box No. I IDENTIFICATION OF THE INTERNATIONAL APPLICATION</b></td> <td style="width: 35%;">Applicant's or agent's file reference P005664WO CTH DAA</td> </tr> <tr> <td>International application No. PCT/IB99/01354</td> <td>International filing date (day/month/year) 20 Jul 1999</td> </tr> <tr> <td colspan="2">Title of invention Foodstuff</td> </tr> <tr> <td colspan="2"><b>Box No. II APPLICANT(S)</b></td> </tr> <tr> <td rowspan="3">Name and address: <small>(Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country.)</small>  Danisco A/S Langebrogade 1 PO Box 17 DK-1001 Copenhagen K Denmark</td> <td>Telephone No.:</td> </tr> <tr> <td>Facsimile No.:</td> </tr> <tr> <td>Teleprinter No.:</td> </tr> <tr> <td>State (that is, country) of nationality: Denmark</td> <td>State (that is, country) of residence: Denmark</td> </tr> <tr> <td colspan="2">Name and address: <small>(Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country.)</small>  SØE, Jørn Borch Oroaenget 11 DK-8381 Mundelstrup Denmark</td> </tr> <tr> <td>State (that is, country) of nationality: Denmark</td> <td>State (that is, country) of residence: Denmark</td> </tr> <tr> <td colspan="2">Name and address: <small>(Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country.)</small></td> </tr> <tr> <td>State (that is, country) of nationality:</td> <td>State (that is, country) of residence:</td> </tr> </table>		<b>Box No. I IDENTIFICATION OF THE INTERNATIONAL APPLICATION</b>	Applicant's or agent's file reference P005664WO CTH DAA	International application No. PCT/IB99/01354	International filing date (day/month/year) 20 Jul 1999	Title of invention Foodstuff		<b>Box No. II APPLICANT(S)</b>		Name and address: <small>(Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country.)</small>  Danisco A/S Langebrogade 1 PO Box 17 DK-1001 Copenhagen K Denmark	Telephone No.:	Facsimile No.:	Teleprinter No.:	State (that is, country) of nationality: Denmark	State (that is, country) of residence: Denmark	Name and address: <small>(Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country.)</small>  SØE, Jørn Borch Oroaenget 11 DK-8381 Mundelstrup Denmark		State (that is, country) of nationality: Denmark	State (that is, country) of residence: Denmark	Name and address: <small>(Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country.)</small>		State (that is, country) of nationality:	State (that is, country) of residence:
<b>Box No. I IDENTIFICATION OF THE INTERNATIONAL APPLICATION</b>	Applicant's or agent's file reference P005664WO CTH DAA																						
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Name and address: <small>(Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country.)</small>  Danisco A/S Langebrogade 1 PO Box 17 DK-1001 Copenhagen K Denmark	Telephone No.:																						
	Facsimile No.:																						
	Teleprinter No.:																						
State (that is, country) of nationality: Denmark	State (that is, country) of residence: Denmark																						
Name and address: <small>(Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country.)</small>  SØE, Jørn Borch Oroaenget 11 DK-8381 Mundelstrup Denmark																							
State (that is, country) of nationality: Denmark	State (that is, country) of residence: Denmark																						
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State (that is, country) of nationality:	State (that is, country) of residence:																						

| Further applicants are indicated on a continuation sheet. | |

**Box No. III AGENT OR COMMON REPRESENTATIVE; OR ADDRESS FOR CORRESPONDENCE**The following person is  agent  common representativeand  has been appointed earlier and represents the applicant(s) also for international preliminary examination. is hereby appointed and any earlier appointment of (an) agent(s)/common representative is hereby revoked. is hereby appointed, specifically for the procedure before the International Preliminary Examining Authority, in addition to the agent(s)/common representative appointed earlier.Name and address: *(Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country.)*HARDING, Charles Thomas  
D Young & Co  
21 New Fetter Lane  
London  
EC4A 1DA  
United Kingdom

Telephone No.:

023 8063 4816

Facsimile No.:

023 8022 4262

Teleprinter No.:

477667 YOUNGS G

 **Address for Correspondence:** Mark this check-box where no agent or common representative is/has been appointed and the space above is used instead to indicate a special address to which correspondence should be sent.**Box No. IV BASIS FOR INTERNATIONAL PRELIMINARY EXAMINATION****Statement concerning amendments: \***

1. The applicant wishes the international preliminary examination to start on the basis of:

 the international application as originally filed

the description

 as originally filed as amended under Article 34

the claims

 as originally filed as amended under Article 19 (together with any accompanying statement) as amended under Article 34

the drawings

 as originally filed as amended under Article 342.  The applicant wishes any amendment to the claims under Article 19 to be considered as reversed.3.  The applicant wishes the start of the international preliminary examination to be postponed until the expiration of 20 months from the priority date unless the International Preliminary Examining Authority receives a copy of any amendments made under Article 19 or a notice from the applicant that he does not wish to make such amendments (Rule 69.1(d)). *(This check-box may be marked only where the time limit under Article 19 has not yet expired).*

\* Where no check-box is marked, international preliminary examination will start on the basis of the international application as originally filed or, where a copy of amendments to the claims under Article 19 and/or amendments of the international application under Article 34 are received by the International Preliminary Examining Authority before it has begun to draw up a written opinion or the international preliminary examination report, as so amended.

Language for the purposes of international preliminary examination: .....

 which is the language in which the international application was filed. which is the language of a translation furnished for the purposes of international search. which is the language of publication of the international application. which is the language of translation (to be) furnished for the purposes of international preliminary examination.**Box No. V ELECTION OF STATES**The applicant hereby elects all eligible States *(that is, all States which have been designated and which are bound by Chapter II of the PCT)*

excluding the following States which the applicant wishes not to elect:



**Box No. VI CHECK LIST**

The demand is accompanied by the following elements, in the language referred to in Box No. IV, for the purposes of international preliminary examination:

- |  |   |        |
|--|---|--------|
| 1. translation of international application                              | : | sheets |
| 2. amendments under Article 34   | : | sheets |
| 3. copy (or, where required, translation) of amendments under Article 19 | : | sheets |
| 4. copy (or, where required, translation) of statement under Article 19  | : | sheets |
| 5. letter  | : | sheets |
| 6. other (specify)   | : | sheets |

For International Preliminary Examining Authority use only

received	not received
<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>

The demand is also accompanied by the item(s) marked below:

- |  |   |
|--|---|
| 1. <input checked="" type="checkbox"/> fee calculation sheet                             | 4. <input type="checkbox"/> statement explaining lack of signature                                  |
| 2. <input type="checkbox"/> separate signed power of attorney                            | 5. <input type="checkbox"/> nucleotide and or amino acid sequence listing in computer readable form |
| 3. <input type="checkbox"/> copy of general power of attorney; reference number, if any; | 6. <input type="checkbox"/> other (specify): Letter   |

**Box No. VII SIGNATURE OF APPLICANT, AGENT OR COMMON REPRESENTATIVE**

Next to each signature, indicate the name of the person signing and the capacity in which the person signs (if such capacity is not obvious from reading the demand).

C T HARDING

For International Preliminary Examining Authority use only

1. Date of actual receipt of DEMAND:

2. Adjusted date of receipt of demand due to CORRECTIONS under Rule 60.1(b):

3.  The date of receipt of the demand is AFTER the expiration of 19 months from the priority date and item 4 or 5, below, does not apply.  The applicant has been informed accordingly.

4.  The date of receipt of the demand is WITHIN the period of 19 months from the priority date as extended by virtue of Rule 80.5.

5.  Although the date of receipt of the demand is after the expiration of 19 months from the priority date, the delay in arrival is EXCUSED pursuant to Rule 82.

For International Bureau use only

Demand received from IPEA on:

# PATENT COOPERATION TREATY

From the:  
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

## PCT

### WRITTEN OPINION

(PCT Rule 66)

To:

HARDING, C.  
D. YOUNG & CO.  
21 New Fetter Lane  
London EC4A 1DA

GRANDE-BRETAGNE

SOUTHAMPTON

- 2 MAY 2000

4800

Revised 05 DAA

Date of mailing  
(day/month/year)

04.05.2000

Applicant's or agent's file reference

P005664WOCTH

**REPLY DUE**

**within 3 month(s)**  
from the above date of mailing

International application No.

PCT/IB99/01354

International filing date (day/month/year)

20/07/1999

Priority date (day/month/year)

21/07/1998

International Patent Classification (IPC) or both national classification and IPC

C12P7/64

Applicant

DANISCO A/S et al.

1. This written opinion is the **first** drawn up by this International Preliminary Examining Authority.

2. This opinion contains indications relating to the following items:

- I  Basis of the opinion
- II  Priority
- III  Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV  Lack of unity of invention
- V  Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI  Certain document cited
- VII  Certain defects in the international application
- VIII  Certain observations on the international application

3. The applicant is hereby **invited to reply** to this opinion.

**When?** See the time limit indicated above. The applicant may, before the expiration of that time limit, request this Authority to grant an extension, see Rule 66.2(d).

**How?** By submitting a written reply, accompanied, where appropriate, by amendments, according to Rule 66.3. For the form and the language of the amendments, see Rules 66.8 and 66.9.

**Also:** For an additional opportunity to submit amendments, see Rule 66.4.  
For the examiner's obligation to consider amendments and/or arguments, see Rule 66.4 bis.  
For an informal communication with the examiner, see Rule 66.6.

**If no reply is filed,** the international preliminary examination report will be established on the basis of this opinion.

4. The final date by which the international preliminary examination report must be established according to Rule 69.2 is: 21/11/2000.

Name and mailing address of the international preliminary examining authority:

 European Patent Office  
D-80298 Munich  
Tel. +49 89 2399 - 0 Tx: 523656 epmu d  
Fax: +49 89 2399 - 4465

Authorized officer / Examiner

Romano-Götsch, R

Formalities officer (incl. extension of time limits)

DA ROCHA, O.  
Telephone No. +49 89 2399 8101



**I. Basis of the opinion**

1. This opinion has been drawn on the basis of (*substitute sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this opinion as "originally filed".*):

**Description, pages:**

1-34 as originally filed

**Claims, No.:**

1-29 as originally filed

**Drawings, sheets:**

1/2-2/2 as originally filed

2. The amendments have resulted in the cancellation of:

- the description, pages:  
 the claims, Nos.:  
 the drawings, sheets:

3. This opinion has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)):

4. Additional observations, if necessary:

**III. Non-establishment of opinion with regard to novelty, inventive step and industrial applicability**

The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non-obvious), or to be industrially applicable have not been and will not be examined in respect of:

- the entire international application,  
 claims Nos. 1-12,25-29,

because:

- the said international application, or the said claims Nos. relate to the following subject matter which does not require an international preliminary examination (*specify*):

- the description, claims or drawings (*indicate particular elements below*) or said claims Nos. are so unclear that no meaningful opinion could be formed (*specify*):
- the claims; or said claims Nos. are so inadequately supported by the description that no meaningful opinion could be formed.
- no international search report has been established for the said claims Nos. 1-12, 25-29.

**V. Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

1. Statement

Novelty (N)	Claims	13-24 (no) (1-12,25-29 no?)
Inventive step (IS)	Claims	13-24 (no) (1-12, 25-29 no?)
Industrial applicability (IA)	Claims	13-24 (yes) (1-12, 25-29 yes?)

2. Citations and explanations

see separate sheet

**VI. Certain documents cited**

1. Certain published documents (Rule 70.10)

and / or

2. Non-written disclosures (Rule 70.9)

see separate sheet

**VII. Certain defects in the international application**

The following defects in the form or contents of the international application have been noted:

see separate sheet

**VIII. Certain observations on the international application**

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

**see separate sheet**

III. As already highlighted by the ISA, a complete preliminary opinion in respect to novelty, inventive step and industrial applicability relative to the claimed matter 1-12, and 25-29 cannot be expressed by the IPEA in view of the fact that said claimed matter has not been searched (Rule 66.1(e) PCT).

V. The following documents are referred to:

D1: US-A-5 695 802

D2: EP-A-0 652 289

D3: EP-A-0 445 692

D4: WO-A-91 06661

D5: EP-A-0 191 217

D6: EP-A-0 882 797

i. The following documents seem to anticipate the novelty of claims 1-29 on file (Art. 33(2) PCT):

- D1-D3 disclose the enzymatic hydrolysis (via lipase strain) of vegetable or animal fat and the food products in which the fat obtained by said process is incorporated (see (see D1: columns 3-4 and Examples; D2: columns 2-4, claims 1,8-11; D3: p.2 lines 28-30 and claim 1). Thus, D1-D3 anticipate the novelty of claims 1-29.
- D4-D5 disclose a mixture of oil and mono- and diglycerides obtained by enzymatic hydrolysis or esterification (see D4 p. 2-3, D5 p.1-7). The enzyme is removed prior separation of the fatty acid by-products from the reaction mixture (see D4 p.2, lines 28-29; D5 p.7, lines 9-11). Thus, D4-D5 anticipate the novelty of claims 1-3, 5-9, 11-23, 25-29.

ii. Since the enzymatic hydrolysis of fat claimed in claims 1-29 does not appear to provide any unexpected advantage over D1-D5, the claimed matter 1-29 does not appear to involve an inventive step (Art. 33(3) PCT. The applicant is invited to introduce any argumentation or evidence in support of an inventive step.

VI. Document D6, published on 9.12.98 claiming a priority date of 4.06.97, discloses an enzymatic preparation process for triglycerides that appears to fall into the scope of claims 1-29 on file. At present, an investigation as to the right of priority of the present application has not been carried out.

VII.VIII.

i. The expressions *conversion agent, functional ingredient, foodstuff and food material*

- used throughout the description and the claims are obscure (Art. 6 PCT) and render the scope of the claims unclear. For example, there appears to be no distinction between foodstuff and food material. The basis in the description for any amendment should be indicated in the applicant's letter.
- ii. Claims 4-26 claim an *Invention*. Claims 4-26 are dependent on claims 1-3, which are, respectively, a use, a process and a product (foodstuff) type of claim. Apparently, the applicant attempts to group the three types of claim under the word *invention*. However, the term *invention* is obscure and leads to doubts as to the matter for which protection is sought (Art. 6 PCT).
  - iii. In claims 27-29, the expression *as hereinbefore described* is regarded as a reference to the description, which is allowable only when absolutely necessary (Rule 6.2 a) PCT), which does not seem to be the present case.
  - iv. In claim 7, 11, 19, 20, the 'invention' is performed with *derivatives* of the enzymes (in claim 7) or compounds therein listed. Similarly, in claim 9, the *mutants* of the micro-organisms therein listed are claimed to be effective in the performance of the invention. The term *derivatives* or *mutants* are open-ended formulations that leave open to interpretation what type of compound/enzyme/micro-organism, respectively, can be employed to perform the invention. In the present application, however, only the use of the compounds/enzymes/micro-organisms explicitly listed are disclosed in a manner sufficiently clear and complete for it to be carried out by a person skilled in the art as required by Art.5 PCT.
  - v. The Applicant is invited to clarify the difference between the claimed matter 13 (...*generated from at least two constituents.*..) and 14 (...*generated from a first constituent and a second constituent.*..).
  - vi. In claim 15, which indirectly depends on claim 1, the first and second constituents are claimed to be *constituents of the foodstuff*. In claim 1 the constituent is claimed to be constituent of the food material. The applicant is invited to clarify.
  - vii. According to claim 25, ...*at least one functional ingredient comprises an emulsifier*. Applicant's attention is directed to the fact the term 'comprise' seems not fully correct since one ingredient can only be one compound. The applicant is invited to replace

the term 'comprise' with the term 'is' as supported by the description p. 15, line 16.

- viii. When amending the claims, the applicant is invited to simultaneously bring the description into conformity with the claims.
- ix. To meet the requirements of Rule 5.1(a)ii PCT, the documents D1-D5 should be identified in the description and the relevant background art disclosed therein should be briefly discussed.





☐ EPA/EPO/OEB  
D-80298 München  
☎ +49 89 2399-0  
TX 523 656 epmu d  
FAX +49 89 2399-4465

Europäisches  
Patentamt

Generaldirektion 2

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## Correspondence with the EPO on PCT Chapter II demands

In order to ensure that your PCT Chapter II demand is dealt with as promptly as possible you are requested to use the enclosed self-adhesive labels with any correspondence relating to the demand sent to the Munich Office.

One of these labels should be affixed to a prominent place in the upper part of the letter or form etc. which you are filing.